

such debts are not subject to the requirement to transfer debts to Treasury for debt collection. *See* 31 U.S.C. 3711(g); 31 CFR 285.12(e).

(c) Agencies may fund private collection contractor contracts in accordance with 31 U.S.C. 3718(d), or as otherwise permitted by law.

(d) Agencies may enter into contracts for locating and recovering assets of the United States, such as unclaimed assets. Agencies must establish procedures that are acceptable to the Secretary before entering into contracts to recover assets of the United States held by a state government or a financial institution.

(e) Agencies may enter into contracts for debtor asset and income search reports. In accordance with 31 U.S.C. 3718(d), such contracts may provide that the fee a contractor charges the agency for such services may be payable from the amounts recovered, unless otherwise prohibited by statute.

**§ 901.6 Suspension or revocation of eligibility for loans and loan guarantees, licenses, permits, or privileges.**

(a) Unless waived by the head of the agency, agencies are not permitted to extend financial assistance in the form of a loan, loan guarantee, or loan insurance to any person delinquent on a nontax debt owed to a Federal agency. This prohibition does not apply to disaster loans. The authority to waive the application of this section may be delegated to the Chief Financial Officer and redelegated only to the Deputy Chief Financial Officer of the agency. Agencies may extend credit after the delinquency has been resolved. The Secretary may exempt classes of debts from this prohibition and has prescribed standards defining when a “delinquency” is “resolved” for purposes of this prohibition. *See* 31 CFR 285.13 (Barring Delinquent Debtors From Obtaining Federal Loans or Loan Insurance or Guarantees).

(b) In non-bankruptcy cases, agencies seeking the collection of statutory penalties, forfeitures, or other types of claims should consider the suspension or revocation of licenses, permits, or other privileges for any inexcusable or willful failure of a debtor to pay such a debt in accordance with the agency’s

regulations or governing procedures. The debtor should be advised in the agency’s written demand for payment of the agency’s ability to suspend or revoke licenses, permits, or privileges. Any agency making, guaranteeing, insuring, acquiring, or participating in, loans should consider suspending or disqualifying any lender, contractor, or broker from doing further business with the agency or engaging in programs sponsored by the agency if such lender, contractor, or broker fails to pay its debts to the Government within a reasonable time or if such lender, contractor, or broker has been suspended, debarred, or disqualified from participation in a program or activity by another Federal agency. The failure of any surety to honor its obligations in accordance with 31 U.S.C. 9305 should be reported to the Treasury. The Treasury will forward to all interested agencies notification that a surety’s certificate of authority to do business with the Government has been revoked by the Treasury.

(c) The suspension or revocation of licenses, permits, or privileges also should extend to Federal programs or activities that are administered by the states on behalf of the Federal Government, to the extent that they affect the Federal Government’s ability to collect money or funds owed by debtors. Therefore, states that manage Federal activities, pursuant to approval from the agencies, should ensure that appropriate steps are taken to safeguard against issuing licenses, permits, or privileges to debtors who fail to pay their debts to the Federal Government.

(d) In bankruptcy cases, before advising the debtor of an agency’s intention to suspend or revoke licenses, permits, or privileges, agencies should seek legal advice from their agency counsel concerning the impact of the Bankruptcy Code, particularly 11 U.S.C. 362 and 525, which may restrict such action.

**§ 901.7 Liquidation of collateral.**

(a) Agencies should liquidate security or collateral through the exercise of a power of sale in the security instrument or a nonjudicial foreclosure, and apply the proceeds to the applicable debt(s), if the debtor fails to pay

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the debt(s) within a reasonable time after demand and if such action is in the best interest of the United States. Collection from other sources, including liquidation of security or collateral, is not a prerequisite to requiring payment by a surety, insurer, or guarantor unless such action is expressly required by statute or contract.

(b) When an agency learns that a bankruptcy petition has been filed with respect to a debtor, the agency should seek legal advice from its agency counsel concerning the impact of the Bankruptcy Code, including, but not limited to, 11 U.S.C. 362, to determine the applicability of the automatic stay and the procedures for obtaining relief from such stay prior to proceeding under paragraph (a) of this section.

### **§ 901.8 Collection in installments.**

(a) Whenever feasible, agencies shall collect the total amount of a debt in one lump sum. If a debtor is financially unable to pay a debt in one lump sum, agencies may accept payment in regular installments. Agencies should obtain financial statements from debtors who represent that they are unable to pay in one lump sum and independently verify such representations whenever possible (see § 902.2(g) of this chapter). Agencies that agree to accept payments in regular installments should obtain a legally enforceable written agreement from the debtor that specifies all of the terms of the arrangement and that contains a provision accelerating the debt in the event of default.

(b) The size and frequency of installment payments should bear a reasonable relation to the size of the debt and the debtor's ability to pay. If possible, the installment payments should be sufficient in size and frequency to liquidate the debt in three years or less.

(c) Security for deferred payments should be obtained in appropriate cases. Agencies may accept installment payments notwithstanding the refusal of the debtor to execute a written agreement or to give security, at the agency's option.

## **31 CFR Ch. IX (7-1-01 Edition)**

### **§ 901.9 Interest, penalties, and administrative costs.**

(a) Except as provided in paragraphs (g), (h), and (i) of this section, agencies shall charge interest, penalties, and administrative costs on debts owed to the United States pursuant to 31 U.S.C. 3717. An agency shall mail or hand-deliver a written notice to the debtor, at the debtor's most recent address available to the agency, explaining the agency's requirements concerning these charges except where these requirements are included in a contractual or repayment agreement. These charges shall continue to accrue until the debt is paid in full or otherwise resolved through compromise, termination, or waiver of the charges.

(b) Agencies shall charge interest on debts owed the United States as follows:

(1) Interest shall accrue from the date of delinquency, or as otherwise provided by law.

(2) Unless otherwise established in a contract, repayment agreement, or by statute, the rate of interest charged shall be the rate established annually by the Secretary in accordance with 31 U.S.C. 3717. Pursuant to 31 U.S.C. 3717, an agency may charge a higher rate of interest if it reasonably determines that a higher rate is necessary to protect the rights of the United States. The agency should document the reason(s) for its determination that the higher rate is necessary.

(3) The rate of interest, as initially charged, shall remain fixed for the duration of the indebtedness. When a debtor defaults on a repayment agreement and seeks to enter into a new agreement, the agency may require payment of interest at a new rate that reflects the current value of funds to the Treasury at the time the new agreement is executed. Interest shall not be compounded, that is, interest shall not be charged on interest, penalties, or administrative costs required by this section. If, however, a debtor defaults on a previous repayment agreement, charges that accrued but were not collected under the defaulted agreement shall be added to the principal under the new repayment agreement.